

**Plaintiffs' Memorandum in Opposition
to Joint Motion for Summary
Judgment for Failure to Prove Fault
Element of Public Nuisance Claims**

Ex 21 – Mays Tr. (2-8-19) Excerpts

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION
4 - - -
5

6 IN RE: NATIONAL : MDL NO. 2804
7 PRESCRIPTION OPIATE :
8 LITIGATION :
9 :-----
10 :

11 THIS DOCUMENT RELATES TO : CASE NO.
12 ALL CASES : 1:17-MD-2804
13 :
14 : Hon. Dan A.
15 : Polster
16 - - -

17 February 8, 2019
18 - - -
19 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
20 CONFIDENTIALITY REVIEW
21

22 Continued videotaped deposition
23 of STEPHEN MAYS taken pursuant to notice, was
24 held at the law offices of Reed Smith LLP, Three
16 Logan Square, 1717 Arch Street, Suite 3100,
17 Philadelphia, Pennsylvania, beginning at 11:12
18 a.m., on the above date, before Ann Marie
19 Mitchell, a Federally Approved Certified Realtime
20 Reporter, Registered Diplomate Reporter,
21 Registered Merit Reporter and Notary Public.

22 - - -
23 GOLKOW LITIGATION SERVICES
24 877.370.3377 ph | 917.591.5672 fax
 deps@golkow.com

Page 14	Page 16
1 Q. Okay. So you were deposed a few 2 months ago or so in this case. 3 Do you recall? 4 A. I do. 5 Q. Okay. One of the things we 6 discussed in your prior deposition was your work 7 history with your current employer. 8 Do you recall that? 9 A. Yes. 10 Q. During your last deposition, we 11 discussed how one of the things that you did was 12 you established the Orlando facility for the 13 company. 14 Do you recall that discussion? 15 MS. McCLURE: Objection to form. 16 THE WITNESS: I didn't establish 17 it alone. I was the operations manager. 18 BY MR. PIFKO: 19 Q. Okay. 20 A. When it was opened, yes. 21 Q. But you were one of the people 22 who was responsible for establishing the Orlando 23 facility. Correct? 24 A. That's right.	1 was the most senior role. 2 BY MR. PIFKO: 3 Q. And then later you became an 4 auditor. Correct? 5 A. Yes. 6 Q. And part of your responsibilities 7 involved auditing the facilities, including the 8 Orlando facility. Correct? 9 A. Originally not the Orlando 10 facility. 11 Q. But ultimately you did have 12 responsibilities that included auditing the 13 Orlando facility. Correct? 14 A. I believe -- 15 MS. McCLURE: Objection, asked 16 and answered. 17 THE WITNESS: I believe that was 18 in my area of responsibility, yes. 19 BY MR. PIFKO: 20 Q. Are you familiar with the order 21 to show cause that was issued concerning the 22 Orlando facility? 23 A. Yes. 24 MS. McCLURE: Objection, asked
Page 15	Page 17
1 MS. McCLURE: Objection to form. 2 BY MR. PIFKO: 3 Q. You moved from, I believe you 4 were in Kentucky or Tennessee? 5 A. Tennessee. 6 Q. Okay. Tennessee. You moved from 7 there to Orlando in order to help establish the 8 Orlando facility. Correct? 9 A. That's correct. 10 Q. And then you -- what was your 11 first role at the Orlando facility? 12 MS. McCLURE: Objection, asked 13 and answered. 14 THE WITNESS: I was the 15 operations manager. 16 BY MR. PIFKO: 17 Q. And did you have that role the 18 whole time that you were there? 19 A. Not the whole time, no. 20 Q. What was your most senior role 21 when you left the Orlando facility? 22 MS. McCLURE: Objection, asked 23 and answered, form. 24 THE WITNESS: Operations manager	1 and answered. 2 Are we doing a continuation of 3 the exhibit numbering? 4 MR. PIFKO: We're calling it 5 Volume 2. 6 MS. McCLURE: Thank you. 7 - - - 8 (Deposition Exhibit No. Mays 9 V2-1, Order to Show Cause and Immediate 10 Suspension of Registration, Bates stamped 11 ABDCMDL00269383 through ABDCMDL00269387, 12 was marked for identification.) 13 - - - 14 BY MR. PIFKO: 15 Q. I'm handing you what's marked as 16 Exhibit 1. Volume 2, Exhibit 1. 17 For the record, it's a letter 18 from the DEA dated April 19, 2007, Bates labeled 19 ABDCMDL00269383 through 387. 20 Have you seen this exhibit 21 before? 22 MS. McCLURE: The document or the 23 exhibit? 24 THE WITNESS: I've seen this

1 document before, yes. 2 BY MR. PIFKO: 3 Q. Can you tell me what this is? 4 A. It is an order to show cause and 5 immediate suspension of the Orlando registration. 6 Q. When was the last time you saw 7 this document? 8 A. I can't recall. 9 Q. Is this something that you 10 reviewed in preparing for your deposition? 11 A. No. 12 Q. Okay. Do you believe you saw 13 this on or around the time it was issued in April 14 of 2007? 15 MS. McCLURE: Objection to form. 16 THE WITNESS: Sometime after the 17 suspension. I didn't see it immediately. 18 BY MR. PIFKO: 19 Q. Okay. But sometime on or 20 around -- it was -- after it was issued, it was 21 provided to you. Correct? 22 A. That's correct. 23 Q. Who would have provided it to 24 you?	Page 18 1 order to show cause? 2 MS. McCLURE: Objection to form. 3 THE WITNESS: I'm not sure what 4 that -- I'm not sure what you mean by 5 changes operationally. 6 BY MR. PIFKO: 7 Q. Well, let's go through and see -- 8 let's look at Exhibit 1 and see what the 9 Department of Justice said to AmerisourceBergen 10 in this letter. 11 It said, "Respondent" -- you see 12 on the first page here, there's a number of 13 paragraphs, starting about halfway down. 14 It says, "Respondent has failed 15 to maintain effective controls against diversion 16 of particular controlled substances into other 17 than legitimate medical, scientific and 18 industrial channels, in violation of 21 U.S.C. 19 Sections 823(b)(1) and (e)(1)." 20 Do you see that? 21 A. I do. 22 Q. Did I read that correctly? 23 A. I believe you did. 24 Q. And then it says, "From January
Page 19 1 MS. McCLURE: Objection to form. 2 THE WITNESS: I don't recall. 3 BY MR. PIFKO: 4 Q. Were you part of discussions 5 about what was going to be done to respond to 6 this order to show cause? 7 MS. McCLURE: Objection to form. 8 THE WITNESS: Internally or with 9 DEA? 10 BY MR. PIFKO: 11 Q. Internally. 12 A. Internally. Yes. I was part of 13 some discussions, yes. 14 Q. Who did you discuss this order to 15 show cause with? 16 A. My boss, Chris Zimmerman. 17 Q. Anyone else? 18 A. Not that I remember. 19 Q. What was the nature of your 20 discussion with Mr. Zimmerman? 21 A. I don't recall exactly. 22 Q. Did you discuss that you were 23 going to make any changes to the operations at 24 the Orlando facility as a result of seeing this	Page 21 1 1, 2006, through January 31, 2007, Respondent 2 distributed over 3.8 million dosage units of 3 combination hydrocodone products to customers 4 that it knew or should have known were diverting 5 the hydrocodone into other than legitimate 6 medical, scientific and industrial channels." 7 Do you see that? 8 A. Yes, I do. 9 Q. Did I read that correctly? 10 A. I think you did. 11 Q. Did you understand at the time 12 that that was a concern raised by the Department 13 of Justice with respect to AmerisourceBergen? 14 A. Yes, I understand that. 15 MS. McCLURE: Objection to the 16 form. 17 BY MR. PIFKO: 18 Q. Did you have an understanding 19 about what the specific basis was for that 20 concern? 21 MS. McCLURE: Objection to the 22 form. 23 THE WITNESS: Can you repeat that 24 question again?

<p>1 BY MR. PIFKO:</p> <p>2 Q. So it says here that</p> <p>3 AmerisourceBergen failed to maintain effective</p> <p>4 controls against diversion. And then it says</p> <p>5 that AmerisourceBergen distributed over</p> <p>6 3.8 million dosage units of combination</p> <p>7 hydrocodone products to customers that it knew or</p> <p>8 should have known were diverting them.</p> <p>9 Did I read that -- summarize it</p> <p>10 correctly?</p> <p>11 A. I just asked you to repeat the</p> <p>12 question.</p> <p>13 Q. Yeah. Did I summarize that</p> <p>14 correctly?</p> <p>15 A. I think you did.</p> <p>16 Q. Okay. So my question is, do you</p> <p>17 have an understanding about the specific basis of</p> <p>18 why the Department of Justice said that?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. What is your</p> <p>21 understanding?</p> <p>22 A. That the Department of Justice</p> <p>23 felt like we were shipping a large quantity to --</p> <p>24 of hydrocodone combination products to customers</p>	<p>Page 22</p> <p>1 Justice they were wrong. Correct?</p> <p>2 MS. McCLURE: Objection to form.</p> <p>3 THE WITNESS: I don't know.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. Sitting here today, you're not</p> <p>6 aware of anyone responding to the Department of</p> <p>7 Justice in connection with this and saying the</p> <p>8 sales figures you're providing in your letter are</p> <p>9 incorrect.</p> <p>10 Would you agree with that?</p> <p>11 MS. McCLURE: Objection to form.</p> <p>12 THE WITNESS: Again, I don't know</p> <p>13 what was said.</p> <p>14 BY MR. PIFKO:</p> <p>15 Q. What was your title at this time?</p> <p>16 A. 2007, I would have -- I believe I</p> <p>17 was director of regulatory affairs.</p> <p>18 Q. Were the policies and procedures</p> <p>19 at the Orlando facility consistent with the</p> <p>20 company's policies around the country?</p> <p>21 MS. McCLURE: Objection to form.</p> <p>22 THE WITNESS: Yes, they were.</p> <p>23 BY MR. PIFKO:</p> <p>24 Q. So with respect to diversion</p>
<p>1 in Florida, in their opinion.</p> <p>2 Q. Were you in fact shipping the</p> <p>3 quantities that they said you were shipping?</p> <p>4 A. I can't verify that to the</p> <p>5 number.</p> <p>6 Q. Do you recall ever --</p> <p>7 A. I'm sure -- go ahead.</p> <p>8 Q. Do you recall ever disputing</p> <p>9 that the numbers that they were providing were</p> <p>10 incorrect?</p> <p>11 MS. McCLURE: Objection to form.</p> <p>12 THE WITNESS: I don't recall that</p> <p>13 we disputed it, no.</p> <p>14 BY MR. PIFKO:</p> <p>15 Q. So to your recollection, you</p> <p>16 never told the Department of Justice their</p> <p>17 numbers were wrong. Agreed?</p> <p>18 MS. McCLURE: Objection to form.</p> <p>19 THE WITNESS: I wasn't involved</p> <p>20 in the discussions with the Department of</p> <p>21 Justice.</p> <p>22 BY MR. PIFKO:</p> <p>23 Q. Okay. But to your knowledge, no</p> <p>24 one at AmerisourceBergen told the Department of</p>	<p>Page 23</p> <p>1 control, there was nothing different going on at</p> <p>2 the Orlando facility than there was at any other</p> <p>3 facility. Correct?</p> <p>4 MS. McCLURE: Objection to form.</p> <p>5 THE WITNESS: Not that I know of.</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. Do you know why you said earlier</p> <p>8 that the Department of Justice was concerned</p> <p>9 about the volume of these products, these</p> <p>10 hydrocodone combination products, that were being</p> <p>11 sold to customers? Agreed?</p> <p>12 MS. McCLURE: Objection to form.</p> <p>13 THE WITNESS: I agree that</p> <p>14 they -- I would assume they were</p> <p>15 concerned or they wouldn't have suspended</p> <p>16 the registration.</p> <p>17 BY MR. PIFKO:</p> <p>18 Q. Why were they concerned about</p> <p>19 these volumes?</p> <p>20 MS. McCLURE: Objection to form.</p> <p>21 THE WITNESS: I don't know.</p> <p>22 BY MR. PIFKO:</p> <p>23 Q. You have no idea why this was a</p> <p>24 concern?</p>

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<p>1 MS. McCLURE: Same objection.</p> <p>2 THE WITNESS: I didn't have any</p> <p>3 conversations with DEA about it, so I</p> <p>4 don't know how they formed that opinion.</p> <p>5 BY MR. PIFKO:</p> <p>6 Q. Well, let's go to the second page</p> <p>7 here.</p> <p>8 Again, there's numbered</p> <p>9 paragraphs. There's a paragraph number 5 at the</p> <p>10 bottom there.</p> <p>11 A. Okay.</p> <p>12 Q. I'm going to read it to you, and</p> <p>13 tell me if I read it correctly.</p> <p>14 It says, "On August 10, 2005, DEA</p> <p>15 personnel met with Steve Mays, Respondent's</p> <p>16 Director of Regulatory Affairs, to inform him</p> <p>17 about the common characteristics of pharmacies</p> <p>18 that divert large amounts of controlled</p> <p>19 substances by filling invalid prescriptions</p> <p>20 obtained by customers using the Internet."</p> <p>21 Do you see that?</p> <p>22 A. Yes, I do.</p> <p>23 Q. Did I read that correctly?</p> <p>24 A. Yes, you did.</p>	<p>1 with the DEA, correct --</p> <p>2 A. Yes, I do.</p> <p>3 Q. -- in 2005?</p> <p>4 MS. McCLURE: Objection, asked</p> <p>5 and answered.</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. Who was present at this meeting?</p> <p>8 MS. McCLURE: Objection, asked</p> <p>9 and answered.</p> <p>10 THE WITNESS: Myself and Mike</p> <p>11 Mates (ph) from DEA. And then there was</p> <p>12 an attorney there, counsel, that I don't</p> <p>13 recall his name.</p> <p>14 BY MR. PIFKO:</p> <p>15 Q. Attorney for the Department of</p> <p>16 Justice?</p> <p>17 A. Yes. Or for DEA.</p> <p>18 Q. Okay. Was there anyone else from</p> <p>19 AmerisourceBergen who was present at this</p> <p>20 meeting?</p> <p>21 MS. McCLURE: Objection, asked</p> <p>22 and answered.</p> <p>23 THE WITNESS: No, there wasn't.</p> <p>24 BY MR. PIFKO:</p>
<p>1 Q. Do you recall having a meeting</p> <p>2 with DEA personnel on August 10, 2005?</p> <p>3 MS. McCLURE: Objection, asked</p> <p>4 and answered.</p> <p>5 THE WITNESS: I don't recall if</p> <p>6 that was the exact date, but I do recall</p> <p>7 the meeting, yes.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. Does this refresh your</p> <p>10 recollection about what your title was on or</p> <p>11 around this time?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. So when it says here that</p> <p>14 you were director of regulatory affairs, is that</p> <p>15 correct?</p> <p>16 A. That's correct.</p> <p>17 Q. Was that your title on or around</p> <p>18 the time that this order to show cause was</p> <p>19 issued?</p> <p>20 MS. McCLURE: Objection, asked</p> <p>21 and answered.</p> <p>22 THE WITNESS: I think so, yes.</p> <p>23 BY MR. PIFKO:</p> <p>24 Q. So you recall having this meeting</p>	<p>1 Q. Do you agree with the</p> <p>2 characterization in this letter that at that</p> <p>3 meeting they informed you about the common</p> <p>4 characteristics of pharmacies that divert large</p> <p>5 amounts of controlled substances by filling</p> <p>6 invalid prescriptions obtained by customers using</p> <p>7 the internet?</p> <p>8 A. Yes.</p> <p>9 Q. It says, going on to page 3, "DEA</p> <p>10 personnel reminded Respondent that under 21</p> <p>11 U.S.C. Sections 823(b)(1) and (e)(1), Respondent</p> <p>12 was responsible to prevent the diversion of</p> <p>13 controlled substances."</p> <p>14 Do you see that?</p> <p>15 A. I see that, yes.</p> <p>16 Q. Did I read that correctly?</p> <p>17 A. Yes, you did.</p> <p>18 Q. Do you recall the DEA informing</p> <p>19 you during that meeting that AmerisourceBergen</p> <p>20 was responsible for preventing diversion of</p> <p>21 controlled substances?</p> <p>22 MS. McCLURE: Objection to form.</p> <p>23 THE WITNESS: I don't recall that</p> <p>24 specifically.</p>

<p>1 BY MR. PIFKO:</p> <p>2 Q. How about generally?</p> <p>3 MS. McCLURE: Same.</p> <p>4 THE WITNESS: Same.</p> <p>5 BY MR. PIFKO:</p> <p>6 Q. Do you recall during that meeting</p> <p>7 the DEA discussing AmerisourceBergen's</p> <p>8 responsibilities under the Controlled Substances</p> <p>9 Act?</p> <p>10 MS. McCLURE: Objection to form.</p> <p>11 THE WITNESS: Not specifically.</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. How about generally, do you</p> <p>14 remember --</p> <p>15 A. That was 12 years ago.</p> <p>16 Q. Okay. How about generally, do</p> <p>17 you remember them discussing any expectations</p> <p>18 about what AmerisourceBergen was supposed to do</p> <p>19 with respect to complying with the Controlled</p> <p>20 Substances Act?</p> <p>21 MS. McCLURE: Objection to form.</p> <p>22 THE WITNESS: Not specifically.</p> <p>23 BY MR. PIFKO:</p> <p>24 Q. How about generally?</p>	<p>Page 30</p> <p>1 BY MR. PIFKO:</p> <p>2 Q. Who would you have told if you</p> <p>3 told someone?</p> <p>4 MS. McCLURE: Objection to form,</p> <p>5 calls for speculation.</p> <p>6 THE WITNESS: I would have to</p> <p>7 speculate. I don't know. I couldn't</p> <p>8 tell you for sure. Again, that was 12</p> <p>9 years ago.</p> <p>10 BY MR. PIFKO:</p> <p>11 Q. Okay. Next sentence here,</p> <p>12 "Notwithstanding the information provided to</p> <p>13 Respondent, after the August 10, 2005 meeting,</p> <p>14 Respondent sold over 5.2 million dosage units of</p> <p>15 hydrocodone to pharmacies that bore the</p> <p>16 characteristics that DEA described in the August</p> <p>17 10, 2005 meeting."</p> <p>18 Do you see that?</p> <p>19 A. Yes, I do.</p> <p>20 Q. Did I read that correctly?</p> <p>21 A. I believe you did.</p> <p>22 Q. Do you agree with that statement?</p> <p>23 MS. McCLURE: Objection to form.</p> <p>24 THE WITNESS: I can't verify the</p>
<p>1 MS. McCLURE: Same objection.</p> <p>2 THE WITNESS: Not -- not</p> <p>3 generally.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. So you don't have any</p> <p>6 recollection of whether you discussed the</p> <p>7 Controlled Substances Act at that meeting?</p> <p>8 MS. McCLURE: Objection, asked</p> <p>9 and answered.</p> <p>10 THE WITNESS: Not specifically.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. When you left that meeting, you</p> <p>13 reported back to Chris Zimmerman. Correct?</p> <p>14 MS. McCLURE: Objection, asked</p> <p>15 and answered.</p> <p>16 THE WITNESS: I don't recall that</p> <p>17 I did.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. Did you tell anybody about that</p> <p>20 meeting?</p> <p>21 MS. McCLURE: Same objection.</p> <p>22 THE WITNESS: Not -- I don't</p> <p>23 recall specifically. I'm sure I did, but</p> <p>24 I don't recall specifically.</p>	<p>Page 31</p> <p>1 quantities.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. Other than verifying the</p> <p>4 quantities, do you agree with that statement?</p> <p>5 MS. McCLURE: Same objection.</p> <p>6 THE WITNESS: I can't really</p> <p>7 agree with it because I don't -- I don't</p> <p>8 know. I don't recall.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. You don't know either way?</p> <p>11 A. No.</p> <p>12 Q. Do you have any reason to dispute</p> <p>13 that AmerisourceBergen sold over 5.2 million</p> <p>14 dosage units of hydrocodone products to</p> <p>15 pharmacies that bore the characteristics</p> <p>16 discussed at this August 10, 2005 meeting?</p> <p>17 MS. McCLURE: Objection to form.</p> <p>18 THE WITNESS: I don't have any</p> <p>19 specific reason to dispute it, no.</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. Do you remember the DEA</p> <p>22 discussing specific characteristics of</p> <p>23 hydrocodone products during the August 10, 2005</p> <p>24 meeting?</p>

<p style="text-align: right;">Page 34</p> <p>1 MS. McCLURE: Objection to form, 2 asked and answered.</p> <p>3 THE WITNESS: Characteristics of 4 hydrocodone products? Not that I recall.</p> <p>5 BY MR. PIFKO:</p> <p>6 Q. How about do you recall DEA 7 describing certain characteristics of sales to 8 certain types of pharmacies?</p> <p>9 MS. McCLURE: Objection to form.</p> <p>10 THE WITNESS: I recall that, yes.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. What specifically do you recall 13 about that?</p> <p>14 A. We discussed characteristics of 15 internet pharmacy and what to look for.</p> <p>16 Q. What specifically were you 17 supposed to look for with respect to internet 18 pharmacies?</p> <p>19 MS. McCLURE: Objection to form.</p> <p>20 THE WITNESS: I don't recall 21 everything. A few things. I can tell 22 you what I do remember.</p> <p>23 BY MR. PIFKO:</p> <p>24 Q. Yeah, that's what I'm asking.</p>	<p style="text-align: right;">Page 36</p> <p>1 Q. Do you recall writing anything 2 down to change AmerisourceBergen's procedures 3 with respect to the due diligence it may perform 4 with respect to customers after you had this 5 meeting?</p> <p>6 MS. McCLURE: Objection to form.</p> <p>7 THE WITNESS: I don't recall 8 writing things down.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. Do you recall changing any 11 policies or procedures in order to look for the 12 criteria that the Department of Justice 13 identified to you during this meeting?</p> <p>14 MS. McCLURE: Objection to form, 15 assumes facts not in evidence, 16 foundation.</p> <p>17 THE WITNESS: I don't recall 18 specifically.</p> <p>19 BY MR. PIFKO:</p> <p>20 Q. How about generally?</p> <p>21 MS. McCLURE: Same.</p> <p>22 THE WITNESS: Generally, I know 23 we made some changes.</p> <p>24 BY MR. PIFKO:</p>
<p style="text-align: right;">Page 35</p> <p>1 A. Okay. I'm trying to recall. 2 To look for like FedEx boxes or 3 UPS boxes piled up in the pharmacy that would 4 indicate they're shipping drugs other than just 5 filling them at the store. Other than that, I 6 can't remember the specifics.</p> <p>7 Q. When you came back to this 8 meeting, did you instruct anyone at 9 AmerisourceBergen to look for those type of 10 characteristics?</p> <p>11 MS. McCLURE: Objection to form.</p> <p>12 THE WITNESS: I don't recall 13 specifically.</p> <p>14 BY MR. PIFKO:</p> <p>15 Q. How about generally?</p> <p>16 MS. McCLURE: Same.</p> <p>17 THE WITNESS: I'm sure I did, I 18 just don't recall.</p> <p>19 BY MR. PIFKO:</p> <p>20 Q. Who would you have told?</p> <p>21 MS. McCLURE: Objection to form.</p> <p>22 THE WITNESS: Don't recall 23 specifically.</p> <p>24 BY MR. PIFKO:</p>	<p style="text-align: right;">Page 37</p> <p>1 Q. What changes did you make? 2 A. In -- we started conducting due 3 diligence of customers --</p> <p>4 Q. What was --</p> <p>5 A. -- that had the parameters of our 6 program --</p> <p>7 Q. Any other things --</p> <p>8 A. -- on the reports.</p> <p>9 Q. Anything else that you changed?</p> <p>10 A. I can't recall specifically.</p> <p>11 Q. What was the nature of the due 12 diligence that you started performing at that 13 time?</p> <p>14 A. We started using a questionnaire 15 in the due diligence.</p> <p>16 Q. Was there a name for the 17 questionnaire?</p> <p>18 A. A name of it? Can't recall 19 specifically what the name was.</p> <p>20 Q. Who was supposed to fill out this 21 questionnaire?</p> <p>22 MS. McCLURE: Objection to form.</p> <p>23 THE WITNESS: The 24 AmerisourceBergen sales representative,</p>

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<p>1 along with the customer.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. And then what would you do with</p> <p>4 that questionnaire?</p> <p>5 MS. McCLURE: Objection to form.</p> <p>6 THE WITNESS: Well, we would</p> <p>7 review that to see if they answered the</p> <p>8 questions adequately to -- so we could</p> <p>9 ensure that they weren't engaged in that</p> <p>10 type of activity.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. Did you do anything else?</p> <p>13 A. Not specifically. I don't know</p> <p>14 what you're asking.</p> <p>15 Q. What was the nature of your</p> <p>16 review to determine if the customer adequately</p> <p>17 provided information?</p> <p>18 A. I'm not sure what you're asking.</p> <p>19 Q. You said you would review the</p> <p>20 question to see if the -- they were adequately</p> <p>21 filled out so you could ensure that they weren't</p> <p>22 engaged in that type of activity.</p> <p>23 A. Right.</p> <p>24 Q. So I'm asking, what was the</p>	<p>1 and answered.</p> <p>2 THE WITNESS: I don't recall</p> <p>3 specifically, but I believe that was part</p> <p>4 of the questionnaire.</p> <p>5 BY MR. PIFKO:</p> <p>6 Q. Let's go back to Exhibit 1 here.</p> <p>7 On the third page of the exhibit,</p> <p>8 tell me when you're there.</p> <p>9 A. Oh. I thought that's where we</p> <p>10 were.</p> <p>11 Q. Yeah, we were.</p> <p>12 A. Okay.</p> <p>13 Q. It's got a bunch of -- well,</p> <p>14 remember we just read a sentence in the top of</p> <p>15 the first paragraph.</p> <p>16 A. Uh-huh.</p> <p>17 Q. Starting where we left off, it</p> <p>18 says, "Respondent continued to sell controlled</p> <p>19 substances to Grand, Discount Mail Meds and" Med</p> <p>20 Assistant "even though Respondent knew, or should</p> <p>21 have known, that these pharmacies were diverting</p> <p>22 controlled substances into other than legitimate</p> <p>23 medical, scientific and industrial channels."</p> <p>24 Do you see that?</p>
<p style="text-align: center;">Page 39</p> <p>1 nature of your review to conduct that analysis?</p> <p>2 MS. McCLURE: Form.</p> <p>3 THE WITNESS: We would verify as</p> <p>4 much of the information as they gave us.</p> <p>5 BY MR. PIFKO:</p> <p>6 Q. How would you verify it?</p> <p>7 A. I can't remember specifically.</p> <p>8 You know, if they gave us a website or something</p> <p>9 like that, we would verify that website, to make</p> <p>10 sure that they weren't filling prescriptions</p> <p>11 based on the questionnaire.</p> <p>12 Q. Did the questionnaire include any</p> <p>13 photographs?</p> <p>14 MS. McCLURE: Objection, form.</p> <p>15 THE WITNESS: I can't remember in</p> <p>16 the beginning if we required photographs,</p> <p>17 but I know at some point we required</p> <p>18 the -- whoever went on site, typically it</p> <p>19 was a salesperson, to take photographs</p> <p>20 inside and outside of the building.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. Did you ask people to look for</p> <p>23 FedEx packages?</p> <p>24 MS. McCLURE: Objection, asked</p>	<p style="text-align: center;">Page 41</p> <p>1 A. Yes, I see that.</p> <p>2 Q. Did I read that correctly?</p> <p>3 A. Yes, you did.</p> <p>4 Q. If you go back to page 2,</p> <p>5 paragraph 3, it talks about how AmerisourceBergen</p> <p>6 distributed approximately a million dosage units</p> <p>7 of hydrocodone products to Grand Pharmacy.</p> <p>8 Do you see that?</p> <p>9 MS. McCLURE: Objection to form.</p> <p>10 THE WITNESS: I do.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. Did I read that correct -- did I</p> <p>13 summarize that correctly?</p> <p>14 A. I believe you did.</p> <p>15 Q. Okay. And then in paragraph 4,</p> <p>16 it talks about supplying hydrocodone products to</p> <p>17 a number of other pharmacies.</p> <p>18 Do you see that?</p> <p>19 A. Yes, I do.</p> <p>20 Q. And then it says in paragraph 4</p> <p>21 that the distribution of those was under</p> <p>22 circumstances that should have alerted</p> <p>23 AmerisourceBergen that the pharmacies were</p> <p>24 diverting hydrocodone.</p>

1 Do you see that? 2 A. You said paragraph 4? 3 Q. Yeah. The last sentence in the 4 bottom of that first paragraph there. 5 A. Okay. I see it. 6 Q. Did I read that correctly? 7 A. Yes, sir. 8 Q. Okay. Do you believe that the 9 policies and procedures that you implemented 10 after this August 2005 meeting were sufficient to 11 detect diversion? 12 MS. McCLURE: Objection, form. 13 THE WITNESS: I believe that the 14 actions that we took enabled us to 15 identify internet pharmacies. And I 16 think we ceased distributing to some of 17 these. I can't tell you exactly which 18 ones, but I believe we cut those off. 19 BY MR. PIFKO: 20 Q. After you received this letter? 21 A. No. I think some of these were 22 cut off before this action was taken. I can't -- 23 I don't remember specifically which ones, but I 24 do recall that when this happened, some of these	Page 42 1 have known that they were diverting them to 2 illegitimate channels, you still feel like the 3 company was doing enough, as the director of 4 regulatory affairs? 5 MS. McCLURE: Objection, form. 6 THE WITNESS: I felt like we were 7 doing the best we could as a distributor 8 to comply with the regulations. And we 9 took steps to improve our due diligence 10 and our monitoring of our customers. 11 BY MR. PIFKO: 12 Q. Do you believe you took adequate 13 steps to improve your due diligence and monitor 14 customers? 15 MS. McCLURE: Objection, form. 16 THE WITNESS: Yes. 17 BY MR. PIFKO: 18 Q. Going to page 3 here, it says, in 19 the middle of the second paragraph -- tell me 20 when you're there -- "it is my preliminary 21 conclusion that Respondent's continued 22 registration while these proceedings are pending 23 would constitute an imminent danger to the public 24 health and safety because of the substantial
Page 43 1 customers that were mentioned, we had cut off 2 before the suspension. 3 Q. Did receiving this letter cause 4 AmerisourceBergen to be concerned that it wasn't 5 doing enough to comply with diversion control 6 laws and regulations? 7 MS. McCLURE: Objection to form. 8 THE WITNESS: I couldn't tell you 9 what the company thought. 10 BY MR. PIFKO: 11 Q. How about you? You were 12 regulatory affairs manager. 13 A. Director. 14 Q. Director. 15 A. Uh-huh. 16 Q. Did you feel like the company was 17 doing enough to prevent diversion when you 18 received this order to show cause? 19 MS. McCLURE: Objection, form. 20 THE WITNESS: Yes, I did. 21 BY MR. PIFKO: 22 Q. So even though the Department of 23 Justice said that you were distributing 24 substances to customers when you knew or should	Page 45 1 likelihood that Respondent will continue to 2 supply pharmacies that divert large quantities of 3 controlled substances." 4 Did I read that correctly? 5 A. Yes, you did. 6 Q. Upon receiving that, did that 7 give you, as the director of compliance and 8 regulatory issues, concern about whether the 9 company's practices were sufficient? 10 MS. McCLURE: Objection to form. 11 THE WITNESS: No. 12 BY MR. PIFKO: 13 Q. Did you think the Department of 14 Justice's conclusions were wrong? 15 A. I think so, yeah. They weren't 16 completely accurate, in my opinion. 17 Q. Why do you say that they weren't 18 completely accurate? 19 A. I can't really say. I just don't 20 think they were completely accurate. I felt like 21 we were doing the best we could to monitor the 22 distribution of these drugs. 23 Q. Do you have any factual basis to 24 challenge that Department of Justice's conclusion

1 there? 2 MS. McCLURE: Objection to form, 3 asked and answered. 4 THE WITNESS: Not today I don't, 5 no. 6 BY MR. PIFKO: 7 Q. Do you know what happened after 8 you received -- the company received this letter? 9 MS. McCLURE: Form. 10 THE WITNESS: What do you mean, 11 what happened? 12 BY MR. PIFKO: 13 Q. The Orlando facility did get its 14 registration suspended. Correct? 15 A. Yes, that's correct. 16 Q. And you had to halt shipments of 17 product for some time period from that facility. 18 Correct? 19 MS. McCLURE: Objection, form. 20 THE WITNESS: Ask the question 21 again, please, I'm sorry. 22 BY MR. PIFKO: 23 Q. You had to halt shipments of 24 product from that facility for some period of	Page 46	1 BY MR. PIFKO: 2 Q. Are you aware of any other 3 actions where the DEA was investigating the 4 company for potential violations of diversion 5 control laws? 6 A. I -- actions -- I mean, I can't 7 recall specifics. 8 Q. How about generally? 9 A. There's always investigations. 10 They inspect our facilities frequently, and there 11 could -- there's always -- I shouldn't say 12 always, but often there's minor violations that 13 are part of their investigation, part of the 14 Controlled Substances Act and the regulations. 15 Q. Do you recall any criminal 16 investigations that were occurring with respect 17 to AmerisourceBergen's diversion control 18 practices? 19 A. I assume if the New Jersey case 20 is considered a criminal action, yes. 21 Q. Okay. What do you know about the 22 New Jersey case? 23 MS. McCLURE: Objection to form. 24 THE WITNESS: I just know that	Page 48
1 time after that. Correct? 2 MS. McCLURE: Objection, form. 3 THE WITNESS: We had to halt 4 shipments of controlled substances from 5 the facility. 6 BY MR. PIFKO: 7 Q. Do you know how long that was in 8 place, where you weren't allowed to ship 9 controlled substances from that facility? 10 A. I couldn't tell you exactly, but 11 it was about three months. 12 Q. Some years later, the Houston 13 facility also almost lost its registration. 14 Correct? 15 MS. McCLURE: Objection to form. 16 THE WITNESS: I don't know what 17 you're talking about. 18 BY MR. PIFKO: 19 Q. You don't have any recollection 20 of the DEA almost suspending the registration of 21 the Houston facility? 22 MS. McCLURE: Objection to form. 23 THE WITNESS: I have no 24 knowledge. No knowledge of that.	Page 47	1 it's a -- that it was a criminal case 2 that I think began in 2012, I believe. 3 BY MR. PIFKO: 4 Q. Did it concern the company's 5 diversion control practices? 6 A. I believe so. 7 Q. When did you first learn about 8 that? 9 A. I learned about that because I 10 was the person they called to ask where to send 11 the initial subpoena. So it was sometime in 12 2012, I believe. 13 Q. So the Department -- 14 A. I'm sorry. When I say "they," 15 New York US -- I don't know if it was US Attorney 16 or New York AG. I can't remember. 17 Q. Okay. So someone from a 18 government enforcement agency contacted you and 19 said they were going to send a subpoena to the 20 company and asked where to send it? 21 A. That's what I recall, yes. 22 Q. Okay. What did you do when you 23 received that inquiry? 24 MS. McCLURE: Objection to form.	Page 49

<p>1 BY MR. PIFKO:</p> <p>2 Q. Did you make any changes to the 3 company's practices after learning about that 4 investigation?</p> <p>5 MS. McCLURE: Objection to form.</p> <p>6 THE WITNESS: I don't recall 7 making any changes.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. Were you concerned at the time 10 that there were criminal investigations of 11 AmerisourceBergen that were occurring?</p> <p>12 MS. McCLURE: Objection to form.</p> <p>13 THE WITNESS: Oh, yes, I was 14 concerned. Yes.</p> <p>15 BY MR. PIFKO:</p> <p>16 Q. Why were you concerned?</p> <p>17 A. Because we were being 18 investigated.</p> <p>19 Q. Why did being investigated give 20 you cause for concern?</p> <p>21 A. That's always a concern. If 22 you're being investigated, that's a concern.</p> <p>23 Q. Do you know what the ultimate 24 outcome of that investigation was?</p>	<p>Page 54</p> <p>1 MS. McCLURE: Objection, asked 2 and answered.</p> <p>3 THE WITNESS: Would that be prior 4 to the suspension?</p> <p>5 BY MR. PIFKO:</p> <p>6 Q. Yes.</p> <p>7 A. Is that what you're asking?</p> <p>8 Q. Yes.</p> <p>9 A. As I recall, it would be the same 10 as any of the other facilities.</p> <p>11 Q. Okay. So at the time this letter 12 was sent, AmerisourceBergen's diversion control 13 systems were the same at all of its distribution 14 centers. Correct?</p> <p>15 MS. McCLURE: Objection to form.</p> <p>16 THE WITNESS: That's what I 17 recall, yes.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. So anything occurring at this 20 Orlando facility could be occurring at any other 21 distribution center. Correct?</p> <p>22 MS. McCLURE: Objection, form.</p> <p>23 THE WITNESS: I disagree.</p> <p>24 BY MR. PIFKO:</p>
<p>1 A. No, I don't.</p> <p>2 Q. Okay.</p> <p>3 A. My understanding, it's still 4 ongoing.</p> <p>5 MR. PIFKO: Let's take a short 6 break.</p> <p>7 THE VIDEOGRAPHER: Going off the 8 record at 11:50 a.m.</p> <p>9 - - -</p> <p>10 (A recess was taken from 11 11:50 a.m. to 12:07 p.m.)</p> <p>12 - - -</p> <p>13 THE VIDEOGRAPHER: Back on the 14 record at 12:07 p.m.</p> <p>15 BY MR. PIFKO:</p> <p>16 Q. I want to bring your attention 17 back to Exhibit 1.</p> <p>18 A. Okay.</p> <p>19 Q. All right. So I just want to 20 confirm, as we discussed before we went on the 21 break, there was nothing different about the 22 procedures at the Orlando facility as opposed to 23 any other facility, any other distribution 24 facility ran by AmerisourceBergen. Correct?</p>	<p>Page 55</p> <p>1 Q. What do you disagree?</p> <p>2 A. Because they're a different 3 customer base, different region of the country.</p> <p>4 Q. But with respect to 5 AmerisourceBergen's procedures, the same things 6 that are occurring at this facility are the same 7 thing that are occurring at other facilities. 8 Correct?</p> <p>9 MS. McCLURE: Objection to form.</p> <p>10 THE WITNESS: As far as our 11 procedures and how -- our policies and 12 procedures, yes, they're -- they would be 13 the same for all of the distribution 14 centers.</p> <p>15 BY MR. PIFKO:</p> <p>16 Q. Okay. Did AmerisourceBergen 17 employ any sort of different system to monitor 18 internet pharmacies as opposed to retail 19 pharmacies or chain pharmacies?</p> <p>20 MS. McCLURE: Objection, form.</p> <p>21 THE WITNESS: No. As far as a 22 system itself, no.</p> <p>23 BY MR. PIFKO:</p> <p>24 Q. So AmerisourceBergen's system</p>

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<p>1 used to monitor internet pharmacies was the same 2 system that it used to monitor retail and chain 3 pharmacies. Correct?</p> <p>4 MS. McCLURE: Objection, form.</p> <p>5 THE WITNESS: Well, we weren't 6 specifically monitoring internet 7 pharmacies. We were monitoring our 8 customers, our pharmacy customers.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. And that system that was used was 11 the same for all customers, regardless of the 12 type of customers. Correct?</p> <p>13 MS. McCLURE: Objection to form, 14 asked and answered.</p> <p>15 THE WITNESS: As I recall, yes.</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. Let's go to page 2 of Exhibit 1.</p> <p>18 A. Okay.</p> <p>19 Q. So looking at paragraph 4, it 20 says, the bottom of paragraph 4, "Respondent 21 distributed hydrocodone under the following 22 circumstances that should have alerted Respondent 23 that the pharmacies were diverting hydrocodone." 24 Do you see that?</p>	<p>1 MS. McCLURE: Objection. 2 BY MR. PIFKO: 3 Q. -- at that time? 4 MS. McCLURE: Asked and answered. 5 THE WITNESS: As I recall, it was 6 a system that generated a report that 7 indicated any orders that were above 8 certain parameters looking back over that 9 customer's average purchases. And they 10 would be flagged on that report if they 11 exceeded that average or that parameter.</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. So you agree here that the DEA is 14 saying in this letter that AmerisourceBergen 15 nevertheless distributed hydrocodone to 16 pharmacies even though the amounts exceeded what 17 an average pharmacy would order for legitimate 18 needs.</p> <p>19 Do you see that?</p> <p>20 MS. McCLURE: Objection, form.</p> <p>21 THE WITNESS: You're on the 22 subparagraph A?</p> <p>23 BY MR. PIFKO:</p> <p>24 Q. Yes.</p>
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<p>1 A. Yes, I do.</p> <p>2 Q. Did I read that correctly?</p> <p>3 A. Yes, you did.</p> <p>4 Q. Then it's got subparts A through 5 D.</p> <p>6 Do you see those?</p> <p>7 A. Yes, I do.</p> <p>8 Q. Part A says, "Respondent 9 distributed hydrocodone to each of the named 10 pharmacies, and others, in amounts that far 11 exceeded what an average pharmacy orders to meet 12 the legitimate needs of its customers."</p> <p>13 Do you see that?</p> <p>14 A. Yes, I do.</p> <p>15 Q. Did I read that correctly?</p> <p>16 A. Yes, you did.</p> <p>17 Q. "Respondent knew that orders of 18 an unusual size were 'suspicious' as that term is 19 used in 21 C.F.R. section 1301.74(b)."</p> <p>20 Did I read that correctly?</p> <p>21 A. Yes, you did.</p> <p>22 Q. What was AmerisourceBergen's 23 system that was in place to monitor the amounts 24 that its customers ordered --</p>	<p>1 A. I agree that that's what DEA is 2 saying, yes.</p> <p>3 Q. So did AmerisourceBergen at this 4 time not have a way of monitoring what a 5 customer's volume was with -- as compared to what 6 an average pharmacy would need to meet legitimate 7 needs of its customers?</p> <p>8 MS. McCLURE: Objection, form.</p> <p>9 THE WITNESS: I don't recall the 10 specific algorithms of that program.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. You believe there was a program 13 that had algorithms?</p> <p>14 A. I'm sorry?</p> <p>15 Q. You believe there was a program 16 that had some algorithm?</p> <p>17 A. I don't know if algorithm is a 18 correct word, but it had a formula built into the 19 system, a certain percentage. And it basically 20 looked at that customer's purchases over, I 21 believe it was -- I believe it was a rolling 22 three-month average. And if it exceeded that by 23 a certain amount, then it would be flagged on 24 this report as a possible excessive order.</p>

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<p>1 Q. But according to DEA, you failed 2 to alert DEA and you failed to prevent orders of 3 unusual size from being shipped to customers. 4 Correct?</p> <p>5 MS. McCLURE: Objection to form.</p> <p>6 THE WITNESS: Can you repeat that 7 again? I'm sorry.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. Yes. So in A here it's saying 10 that you nevertheless shipped orders beyond what 11 an average pharmacy needed?</p> <p>12 MS. McCLURE: Objection, form.</p> <p>13 THE WITNESS: I don't know what 14 an average pharmacy needed.</p> <p>15 BY MR. PIFKO:</p> <p>16 Q. Okay.</p> <p>17 A. So...</p> <p>18 Q. So at the time AmerisourceBergen 19 had no way of evaluating what an average pharmacy 20 needed; is that correct?</p> <p>21 MS. McCLURE: Objection, form.</p> <p>22 THE WITNESS: We only had the 23 ability to know what our customers were 24 purchasing.</p>	<p>1 MS. McCLURE: Objection, asked 2 and answered.</p> <p>3 THE WITNESS: I see that in 4 general, yes.</p> <p>5 BY MR. PIFKO:</p> <p>6 Q. And if you go on the first page 7 here, it says that, in paragraph 1, "Respondent 8 distributed over 3.8 million dosage units of 9 combination hydrocodone products to customers 10 that it knew or should have known were diverting 11 the hydrocodone into other than legitimate 12 medical, scientific and industrial channels."</p> <p>13 Do you see that?</p> <p>14 MS. McCLURE: Objection, form.</p> <p>15 THE WITNESS: I see that.</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. And so my question to you is, 18 there's a failure of AmerisourceBergen to catch 19 this volumes that the Department of Justice 20 identified. Correct?</p> <p>21 MS. McCLURE: Objection, form.</p> <p>22 THE WITNESS: In their opinion, 23 yes.</p> <p>24 BY MR. PIFKO:</p>
<p>1 BY MR. PIFKO:</p> <p>2 Q. Did you take any steps to know 3 what the average pharmacy within your own 4 customers would need to fill legitimate needs of 5 its customers?</p> <p>6 MS. McCLURE: Objection, form.</p> <p>7 THE WITNESS: I don't recall.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. Would you agree that there was a 10 failure of AmerisourceBergen's system that led to 11 the receipt of this order to show cause?</p> <p>12 MS. McCLURE: Objection, form.</p> <p>13 THE WITNESS: No, I don't agree 14 that there was a failure to our system.</p> <p>15 BY MR. PIFKO:</p> <p>16 Q. Going to page 3 here, the top 17 paragraph. We looked at this earlier.</p> <p>18 A. Uh-huh.</p> <p>19 Q. It said that AmerisourceBergen 20 shipped over 5.2 million dosage units of 21 hydrocodone to pharmacies that had certain 22 characteristics that were discussed in your 23 August 10, 2005 meeting.</p> <p>24 Do you see that?</p>	<p>1 Q. What I'm trying to understand is 2 where -- what occurred to result in that failure?</p> <p>3 MS. McCLURE: Objection to form.</p> <p>4 THE WITNESS: I didn't say there 5 was a failure.</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. Did you not know that those 8 volumes of hydrocodone products were being 9 shipped to AmerisourceBergen customers?</p> <p>10 A. I didn't know personally, no.</p> <p>11 Q. Was the company doing anything to 12 monitor the potentially significant volumes of 13 hydrocodone products that were being shipped to 14 its customers?</p> <p>15 MS. McCLURE: Objection, form.</p> <p>16 THE WITNESS: We had a suspicious 17 order monitoring program.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. Okay. So did the system just not 20 catch these orders?</p> <p>21 MS. McCLURE: Objection, form.</p> <p>22 THE WITNESS: I couldn't tell you 23 that.</p> <p>24 BY MR. PIFKO:</p>

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<p>1 Q. Do you know if the system caught 2 these orders and then they were simply released? 3 MS. McCLURE: Objection, form. 4 THE WITNESS: If these orders 5 were suspicious, they would have been on 6 that report and they would have been 7 reported to DEA as suspicious.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. The DEA here is saying these 10 orders are suspicious.</p> <p>11 Do you agree? Let's look at page 12 2, paragraph 4a.</p> <p>13 MS. McCLURE: Objection.</p> <p>14 BY MR. PIFKO:</p> <p>15 Q. "Respondent knew that orders of 16 an unusual size were 'suspicious' as that term is 17 used in 21 C.F.R. Section 1301.74(b)."</p> <p>18 MS. McCLURE: What's the 19 question?</p> <p>20 THE WITNESS: Yeah.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. My question to you was, the DEA 23 was saying these orders were suspicious. 24 Correct?</p>	<p>1 THE WITNESS: Again, I don't know 2 what an average pharmacy's purchases 3 were.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. Okay. So AmerisourceBergen had 6 no steps to monitor what an average pharmacy's 7 needs were at that time.</p> <p>8 MS. McCLURE: Objection.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. Is that correct?</p> <p>11 A. That's --</p> <p>12 MS. McCLURE: Objection, form, 13 asked and answered and misstates the 14 witness's prior testimony.</p> <p>15 You may answer.</p> <p>16 THE WITNESS: I disagree. We 17 have a suspicious order monitoring 18 program.</p> <p>19 BY MR. PIFKO:</p> <p>20 Q. Okay. But you just said, I don't 21 know what an average pharmacy would need.</p> <p>22 A. That's correct.</p> <p>23 Q. Did AmerisourceBergen have any 24 policies or procedures in place to evaluate what</p>
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<p>1 MS. McCLURE: Objection. 2 Objection, form.</p> <p>3 THE WITNESS: I don't see where 4 DEA says those orders were suspicious.</p> <p>5 BY MR. PIFKO:</p> <p>6 Q. Well, it's saying each of these 7 pharmacies and others where you distributed 8 hydrocodone products to them in amounts that far 9 exceeded what an average pharmacy orders to meet 10 the legitimate needs of its customers.</p> <p>11 Do you see that?</p> <p>12 A. Yes, I see that.</p> <p>13 Q. Okay. And it's talking about 14 orders that AmerisourceBergen shipped to its 15 customers. Correct?</p> <p>16 A. Yes, yes, that's correct.</p> <p>17 Q. And then it says, you knew that 18 orders of an unusual size were suspicious.</p> <p>19 Do you see that?</p> <p>20 A. I see that.</p> <p>21 Q. Did you not know that the orders 22 that exceeded what an average pharmacy would need 23 were suspicious?</p> <p>24 MS. McCLURE: Objection to form.</p>	<p>1 an average pharmacy might need?</p> <p>2 MS. McCLURE: Objection, form.</p> <p>3 THE WITNESS: We have a 4 suspicious order monitoring program to 5 monitor our own customers. We don't 6 know -- we didn't know what an average 7 pharmacy purchased, what the quantities 8 were for an average pharmacy.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. So at that time, there was 11 nothing in AmerisourceBergen's system to evaluate 12 what an average pharmacy might need for its 13 legitimate needs for its customers. Correct?</p> <p>14 MS. McCLURE: Objection, form.</p> <p>15 THE WITNESS: Not other than our 16 own customers. That's the only data we 17 have or that we had at that time.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. But you were saying, under 20 AmerisourceBergen's systems in place at that 21 time, it only monitored the average of each 22 customer against its own orders at that time. 23 Correct?</p> <p>24 MS. McCLURE: Objection, form.</p>

<p>1 THE WITNESS: That's what I 2 recall, yes. 3 BY MR. PIFKO: 4 Q. You weren't undertaking any 5 effort to compare a pharmacy's orders compared to 6 another pharmacy's orders at that time. Correct? 7 MS. McCLURE: Objection to form. 8 THE WITNESS: Not that I know of. 9 BY MR. PIFKO: 10 Q. Let's go to paragraph 4b. 11 A. Okay. 12 Q. It says, "Respondent distributed 13 hydrocodone to each of the named pharmacies, and 14 others, even though the pharmacies ordered small 15 amounts of other drug products relative to the 16 pharmacies' hydrocodone purchases from 17 Respondent." 18 Do you see that? 19 A. Yes, I do. 20 Q. "Respondent knew orders for large 21 amounts of hydrocodone in combination with small 22 amounts of other drug products deviated from the 23 normal pattern of orders placed by pharmacies." 24 Do you see that?</p>	<p>Page 70</p> <p>1 Q. Okay. Did you have any system in 2 place to monitor its purchasing of Schedule II or 3 III controlled substances as it compared to other 4 types of substances? 5 A. Not that I know of. 6 Q. Let's go to paragraph 4c. 7 It says, "Respondent distributed 8 hydrocodone to each of the named pharmacies, and 9 others, even though the pharmacies ordered 10 hydrocodone much more frequently than 11 Respondent's other pharmacy customers." 12 Do you see that? 13 A. Yes, I do. 14 Q. Did I read that correctly? 15 A. Yes, you did. 16 Q. It says, "Respondent knew that 17 orders of unusual frequency were 'suspicious' as 18 that term is used in 21 C.F.R. Section 19 1301.74(b)." 20 Did I read that correct? 21 A. That's correct. 22 Q. Did AmerisourceBergen have any 23 system in place at that time to evaluate the 24 frequency of orders of controlled substances</p>
<p>1 A. I see that. 2 Q. Did you know, as the head of 3 regulatory and compliance issues for diversion 4 control at that time, that an order for large 5 amounts of hydrocodone as compared to other drug 6 products was something that deviated from the 7 normal pattern of ordering for a pharmacy? 8 MS. McCLURE: Objection, form. 9 THE WITNESS: Repeat the 10 question, please? 11 BY MR. PIFKO: 12 Q. Did you know, as the head of 13 regulatory and compliance issues for diversion 14 control issues at that time, that an order for 15 large amounts of hydrocodone, as compared to 16 other drug products, was something that deviated 17 from the normal pattern of ordering for a 18 pharmacy? 19 MS. McCLURE: Objection to form. 20 THE WITNESS: We were -- we 21 monitored the purchases of that customer, 22 compared to their previous purchases, is 23 the way our system worked. 24 BY MR. PIFKO:</p>	<p>Page 71</p> <p>1 placed by its customers? 2 MS. McCLURE: Objection to form. 3 THE WITNESS: Not that I know of. 4 BY MR. PIFKO: 5 Q. You said something earlier 6 about -- that after the 2005 meeting with DEA 7 that's referenced in here -- 8 A. Uh-huh. 9 Q. And let's be specific, the one 10 that's referenced in paragraph 5 of Exhibit 1. 11 A. Okay. 12 Q. You said that after that meeting, 13 you initiated some sort of due diligence process. 14 Correct? 15 MS. McCLURE: Objection, form. 16 THE WITNESS: That's correct. 17 BY MR. PIFKO: 18 Q. Prior to that time, did you have 19 no due diligence process in place? 20 MS. McCLURE: Objection to form. 21 THE WITNESS: Yes, we had due 22 diligence. Yes. 23 BY MR. PIFKO: 24 Q. What due diligence process was in</p>

1 place before that meeting? 2 A. The same due diligence that we 3 had had in place for years. 4 Q. And what was it -- 5 A. Do you want me to describe it? 6 Q. Yes. 7 A. Our responsibility was to make a 8 good faith effort to make sure that that 9 customer's properly licensed with the state and 10 registered with DEA. 11 Q. Anything else? 12 A. No. 13 Q. So at that time of the meeting in 14 2005, the only due diligence that was in place 15 was a process to make sure that the customer was 16 properly licensed; is that correct? 17 MS. McCLURE: Objection, form. 18 THE WITNESS: Properly licensed 19 by the state and registered with DEA. 20 That was our requirement under the 21 federal regulations. 22 BY MR. PIFKO: 23 Q. How is it that AmerisourceBergen 24 missed these millions of orders in its suspicious	Page 74 1 THE WITNESS: No, I don't. 2 BY MR. PIFKO: 3 Q. Did you do anything other than 4 report these orders to -- some of the orders that 5 you discussed to DEA to prevent diversion? 6 MS. McCLURE: Objection, form. 7 THE WITNESS: Yes. 8 BY MR. PIFKO: 9 Q. What did you do? 10 A. We cut off -- I believe we cut 11 off some of these pharmacies, if not all of them. 12 I can't recall exactly which ones. 13 Q. Do you know how many you cut off? 14 A. Couldn't -- don't recall. 15 Q. Do you know when you cut them 16 off? 17 A. Either prior to the suspension or 18 after. 19 Q. So you cut some of them off maybe 20 after the suspension order? 21 MS. McCLURE: Objection, form. 22 THE WITNESS: Well, it would have 23 been prior, because we weren't able to 24 ship after -- after the suspension order.
Page 75 1 order monitoring system, as discussed here in 2 Exhibit 1? 3 MS. McCLURE: Objection, form, 4 foundation. 5 THE WITNESS: I'm not sure we 6 missed them. I believe they were 7 reported to DEA as suspicious orders. 8 BY MR. PIFKO: 9 Q. It's your testimony that these 10 orders were picked up by the suspicious order 11 monitoring system and reported to DEA? 12 A. I'm not saying every one. I'm 13 just -- I know that, from what I recall, some of 14 these customers that were mentioned in here, as I 15 recall, had orders that were reported to DEA as 16 suspicious. 17 Q. Do you have any sense of the 18 percentage of the orders, if any, that were 19 caught? 20 A. No, I do not. 21 Q. If you reported these orders to 22 DEA, do you have any understanding as to why DEA 23 issued this order to show cause? 24 MS. McCLURE: Objection, form.	Page 75 1 So it would have been prior to that. 2 BY MR. PIFKO: 3 Q. Would that be contained in any 4 document? 5 MS. McCLURE: Objection, form. 6 THE WITNESS: I'm sure -- no, I 7 don't want to speculate. I don't know. 8 BY MR. PIFKO: 9 Q. Based on your -- you've been with 10 the company for over 30 years. Right? Longer? 11 A. Longer. 12 Q. 40 years? 13 A. Yes. 14 Q. Based on your knowledge of the 15 company's practices and procedures, if you cut 16 off a customer, where would that be documented? 17 MS. McCLURE: Objection, form. 18 THE WITNESS: It depends on what 19 system we're using to document things at 20 a specific time. We've changed 21 documentation processes over the years 22 many times. 23 BY MR. PIFKO: 24 Q. At the time of this order to show

1 cause. 2 MS. McCLURE: Objection, form. 3 THE WITNESS: Again, I'm not sure 4 where it would have been documented. 5 BY MR. PIFKO: 6 Q. You don't know if it would have 7 been documented at all? 8 MS. McCLURE: Objection, form, 9 misstates the witness's prior testimony. 10 THE WITNESS: I don't recall 11 exactly. 12 BY MR. PIFKO: 13 Q. How about generally? 14 A. Generally -- 15 MS. McCLURE: Same objection. 16 THE WITNESS: Generally, I would 17 say that they were documented somewhere. 18 BY MR. PIFKO: 19 Q. Did you review anything in 20 preparing for your deposition that would have 21 discussed the company's shipments or orders 22 from -- with respect to the pharmacies in 23 Exhibit 1? 24 MS. McCLURE: Objection, form.	Page 78	1 THE WITNESS: I can't. 2 BY MR. PIFKO: 3 Q. You're unable to do that? 4 A. Login to, which system are you 5 talking about? Our business system? 6 Q. AmerisourceBergen's diversion 7 control systems. 8 MS. McCLURE: Objection, form. 9 THE WITNESS: No. I don't login 10 to that. 11 BY MR. PIFKO: 12 Q. Do members of your team login to 13 that? 14 MS. McCLURE: Objection, form. 15 THE WITNESS: Not on my team, no. 16 BY MR. PIFKO: 17 Q. Do you know who Eric Cherveny is? 18 A. Yes, I do. 19 Q. Is he someone that was under your 20 team at any point? 21 MS. McCLURE: Objection, form. 22 THE WITNESS: He was under my 23 team back in, you know, I can't remember -- in the 2005 to 2010, sometime	Page 80
1 THE WITNESS: No, no. 2 BY MR. PIFKO: 3 Q. If you were going to do that, how 4 would you do that? 5 MS. McCLURE: Objection, form. 6 THE WITNESS: How would I do 7 what? 8 BY MR. PIFKO: 9 Q. If you were going to research the 10 order history -- 11 A. Uh-huh. 12 Q. -- and shipments made to any of 13 the customers discussed in Exhibit 1, how would 14 you go about doing that? 15 MS. McCLURE: Objection, form. 16 THE WITNESS: I would go back to 17 find out whatever system we were using to 18 document and look through that and do a 19 search. 20 BY MR. PIFKO: 21 Q. It's true that today you can log 22 on to AmerisourceBergen's system and look back at 23 customer histories and correspondence. Correct? 24 MS. McCLURE: Objection, form.	Page 79	1 in that area. 2 BY MR. PIFKO: 3 Q. If he testified that you could go 4 back and look into AmerisourceBergen's systems 5 and get ordering information and information 6 about a customer's history going back at least as 7 early as 2000, would you have any reason to 8 disagree with him? 9 MS. McCLURE: Objection, form. 10 THE WITNESS: I'm not sure how 11 you would, but maybe he can. 12 BY MR. PIFKO: 13 Q. With respect to these orders, you 14 would have reported them after you shipped them. 15 Correct? 16 MS. McCLURE: Objection, form. 17 THE WITNESS: Which orders are 18 you talking about specifically? 19 BY MR. PIFKO: 20 Q. The 5.2 million orders of 21 hydrocodone products or dosage units discussed in 22 Exhibit 1. 23 MS. McCLURE: Objection to form. 24 THE WITNESS: At that time, they	Page 81

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<p>1 would have been reported after.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. None of these orders would have</p> <p>4 been reported prior to shipment. Correct?</p> <p>5 A. That's correct.</p> <p>6 Q. And all of these orders would</p> <p>7 have been shipped without any due diligence.</p> <p>8 Correct?</p> <p>9 MS. McCLURE: Objection, form.</p> <p>10 THE WITNESS: That's incorrect.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. Other than checking their</p> <p>13 registration?</p> <p>14 MS. McCLURE: Objection, form.</p> <p>15 THE WITNESS: Checking the</p> <p>16 registration, the licensing and all the</p> <p>17 other due diligence that we do on</p> <p>18 customers, whether it's credit, their</p> <p>19 ability to pay and whatever else that</p> <p>20 our -- there's different -- other parts</p> <p>21 of our due diligence that are done. But</p> <p>22 as far as controlled substances, it was</p> <p>23 the licensing.</p> <p>24 BY MR. PIFKO:</p>	<p>1 decision would be made about that</p> <p>2 customer based on that due diligence.</p> <p>3 BY MR. PIFKO:</p> <p>4 Q. Right. But my point is, there's</p> <p>5 no specific due diligence that you conduct with</p> <p>6 respect to an order?</p> <p>7 A. To each order?</p> <p>8 MS. McCLURE: Objection to form.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. Right.</p> <p>11 A. Not -- not for each specific</p> <p>12 order, no.</p> <p>13 Q. Okay. So the only due diligence</p> <p>14 that would have been conducted would have been a</p> <p>15 collecting of a form and reviewing that form and</p> <p>16 deciding as a general matter whether to do</p> <p>17 business with that customer. Correct?</p> <p>18 MS. McCLURE: Objection, form.</p> <p>19 THE WITNESS: That's -- that's</p> <p>20 incorrect. That's not correct.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. What's incorrect about my</p> <p>23 statement?</p> <p>24 A. Well, the due diligence is</p>
Page 83	Page 85
<p>1 Q. Okay. So the orders of the</p> <p>2 5.2 million dosage units that are discussed in</p> <p>3 Exhibit 1, the only due diligence with respect to</p> <p>4 diversion control that would have been performed</p> <p>5 on those would have been checking the licensing?</p> <p>6 MS. McCLURE: Objection, form,</p> <p>7 misstates the witness's prior testimony.</p> <p>8 THE WITNESS: Well, let me take</p> <p>9 you back, because actually, since 2005,</p> <p>10 after that meeting with DEA, we did put</p> <p>11 the due diligence process in place with</p> <p>12 questionnaires. And probably I'm sure a</p> <p>13 lot of these pharmacies had been -- had a</p> <p>14 due diligence investigation, had a</p> <p>15 questionnaire and a site visit.</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. But that's something you</p> <p>18 conducted -- it's static.</p> <p>19 You conduct the -- you collect</p> <p>20 the questionnaire, and it sits in a file.</p> <p>21 Correct?</p> <p>22 MS. McCLURE: Objection, form.</p> <p>23 THE WITNESS: No. It gets</p> <p>24 reviewed. It would be reviewed, and a</p>	<p>1 just -- that due diligence questionnaire is just</p> <p>2 part of the process. So any -- an order that</p> <p>3 would have shown up on that suspicious order</p> <p>4 report would have prompted a due diligence</p> <p>5 investigation --</p> <p>6 MS. McCLURE: Objection. Sorry.</p> <p>7 THE WITNESS: -- and a site</p> <p>8 visit.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. So I'm getting mixed statements</p> <p>11 from you.</p> <p>12 You said that there was no</p> <p>13 specific due diligence with respect to an order;</p> <p>14 is that correct?</p> <p>15 A. Well, that due diligence could</p> <p>16 have been prompted by an order.</p> <p>17 Q. Explain that to me.</p> <p>18 A. Okay. So when we -- when we</p> <p>19 started doing the questionnaires, the basis for</p> <p>20 doing those questionnaires would have been that</p> <p>21 possible excessive and suspicious order report,</p> <p>22 and that's when that would prompt that</p> <p>23 questionnaire. So it is related to -- it would</p> <p>24 have been related to an order.</p>

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<p>1 BY MR. PIFKO:</p> <p>2 Q. So did this prompt any changes to</p> <p>3 AmerisourceBergen's suspicious order monitoring</p> <p>4 system?</p> <p>5 MS. McCLURE: Objection, form.</p> <p>6 THE WITNESS: Did what prompt?</p> <p>7 BY MR. PIFKO:</p> <p>8 Q. This order to show cause.</p> <p>9 A. Oh, yes, yes.</p> <p>10 Q. That resulted in a settlement</p> <p>11 agreement with DEA. Correct?</p> <p>12 MS. McCLURE: Objection, asked</p> <p>13 and answered.</p> <p>14 THE WITNESS: Yes.</p> <p>15 BY MR. PIFKO:</p> <p>16 Q. What were the nature of the</p> <p>17 changes that you instituted after this?</p> <p>18 MS. McCLURE: Objection, form.</p> <p>19 And objection, asked and answered.</p> <p>20 THE WITNESS: We enhanced our</p> <p>21 suspicious order monitoring program at</p> <p>22 the direction of DEA. They wanted us to</p> <p>23 develop a system that would stop and hold</p> <p>24 an order and determine whether it was</p>	<p>1 Do you see that?</p> <p>2 A. Yes, I do.</p> <p>3 Q. You are talking about attending</p> <p>4 an HDMA conference. Agreed?</p> <p>5 A. Agree.</p> <p>6 Q. It says, "The HDMA DMC agenda."</p> <p>7 Do you see that?</p> <p>8 A. Yes, I do.</p> <p>9 Q. What's the HDMA DMC?</p> <p>10 A. HDMA DMA is a distribution</p> <p>11 management conference. It's an annual conference</p> <p>12 that HDMA conducts.</p> <p>13 Q. The subject of this email is</p> <p>14 "Big Four' DEA Strategy Discussion 2."</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. So you're reaching out to, at</p> <p>18 this time, people from McKesson, Cardinal Health</p> <p>19 and HD Smith to have a big four DEA strategy</p> <p>20 discussion. Correct?</p> <p>21 MS. McCLURE: Objection, form.</p> <p>22 THE WITNESS: It's what it says,</p> <p>23 yeah, yeah.</p> <p>24 BY MR. PIFKO:</p>
<p>1 suspicious before shipping it.</p> <p>2 - - -</p> <p>3 (Deposition Exhibit No. Mays</p> <p>4 V2-2, Email chain, top one dated 3 Mar</p> <p>5 2013, Bates stamped ABDCMDL00378483</p> <p>6 through ABDCMDL00378488, was marked for</p> <p>7 identification.)</p> <p>8 - - -</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. Handing you what's marked as Mays</p> <p>11 Volume 2, Exhibit 2.</p> <p>12 For the record, it's an email</p> <p>13 thread labeled ABDCMDL00378483 through 88.</p> <p>14 Let me know when you're done,</p> <p>15 take a moment to review that.</p> <p>16 A. (Reviewing document.)</p> <p>17 Okay.</p> <p>18 Q. Right. If you go to the second</p> <p>19 to last page here.</p> <p>20 A. Okay.</p> <p>21 Q. It's the start of -- well, it's</p> <p>22 an email -- that part of the header is on the</p> <p>23 prior page, but it's an email from you to people</p> <p>24 at Cardinal Health, McKesson and HD Smith.</p>	<p>1 Q. Why were you reaching out to</p> <p>2 representatives from this company -- these</p> <p>3 companies to have a DEA strategy discussion at</p> <p>4 this time?</p> <p>5 A. I think we would typically get</p> <p>6 together sometime around those -- those</p> <p>7 conferences, because it was about the only time</p> <p>8 of the year we had face-to-face time. And we</p> <p>9 would just talk about common concerns and issues</p> <p>10 that we have and do some benchmarking, share</p> <p>11 ideas about how we can improve our programs.</p> <p>12 Q. When you say programs and</p> <p>13 concerns, you're talking about specifically in</p> <p>14 the diversion control area. Correct?</p> <p>15 A. No. It could be anything</p> <p>16 regulatory, not just diversion. It could be</p> <p>17 things about, you know, sometimes we would talk</p> <p>18 about DEA inspections and how they -- how they're</p> <p>19 handled, just to get some -- help each other out.</p> <p>20 Q. Okay. But what I'm trying to ask</p> <p>21 is, when you were talking about concerns and</p> <p>22 benchmarking and programs, you're talking about</p> <p>23 programs that relate to DEA compliance. Correct?</p> <p>24 A. I think for the most part. It's</p>

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<p>1 basically anything regulatory that we could talk 2 about. 3 Q. And these other people at 4 McKesson, Cardinal Health and HD Smith, they all 5 had similar responsibilities for regulatory and 6 compliance issues like you did?</p> <p>7 MS. McCLURE: Objection to form.</p> <p>8 THE WITNESS: For the most part 9 as I recall, yes.</p> <p>10 BY MR. PIFKO:</p> <p>11 Q. So this was -- this specific 12 subject line says, "Strategy Discussion 2." 13 Do you see that?</p> <p>14 A. Yeah.</p> <p>15 Q. So this was -- and as you just 16 testified, this was something that you regularly 17 did in connection with HDMA meetings that 18 occurred annually?</p> <p>19 MS. McCLURE: Objection to form.</p> <p>20 THE WITNESS: Not always. I 21 think we'd met before. Might not have 22 been at an HDA meeting.</p> <p>23 BY MR. PIFKO:</p> <p>24 Q. But you had, with some degree of</p>	<p>1 A. No, I don't believe it was. 2 Q. What was your recollection that 3 brought you all to Chicago? 4 A. I think it had been after, you 5 know, the companies -- you know, we had had 6 action taken against us and I think Cardinal and 7 I'm not sure if McKesson had at the time. And I 8 think the idea was just to get together and see 9 how we could do things better.</p> <p>10 Q. You think that would have been in 11 2007 or '8?</p> <p>12 MS. McCLURE: Objection.</p> <p>13 THE WITNESS: I don't think so. 14 I think it might have been after that. I 15 don't know.</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. What action had been taken 18 against you that you're recalling?</p> <p>19 A. The suspension that we were 20 previously talking about.</p> <p>21 Q. And you recall that Cardinal had 22 had some action taken against it around the time 23 of this meeting as well?</p> <p>24 A. Yeah.</p>
Page 95	Page 97
<p>1 regularity, meetings with these people to discuss 2 regulatory and compliance issues?</p> <p>3 MS. McCLURE: Objection, form.</p> <p>4 THE WITNESS: I wouldn't say 5 regularity. We only met like that maybe 6 two or three times.</p> <p>7 BY MR. PIFKO:</p> <p>8 Q. When was the first time you had 9 such a meeting like that?</p> <p>10 A. I can't remember if it was before 11 this one or after this one. We met in Chicago at 12 the airport one time. And I think Cardinal 13 hosted that meeting.</p> <p>14 Q. Do you have a rough idea about 15 when that was?</p> <p>16 MS. McCLURE: Objection.</p> <p>17 THE WITNESS: No, I don't.</p> <p>18 MS. McCLURE: Asked and answered.</p> <p>19 BY MR. PIFKO:</p> <p>20 Q. But it was a meeting in Chicago 21 at the airport?</p> <p>22 A. I believe it was, yeah.</p> <p>23 Q. Was that in connection with an 24 HDMA conference?</p>	<p>1 Q. What specifically was the nature 2 of your understanding about the action taken 3 against Cardinal at that time? 4 A. The one -- the meeting in 5 Chicago? That was when -- because I remember the 6 guy was at that meeting, Michael Mone from 7 Cardinal. And he got called during the meeting, 8 and he had to leave. And I think it was when 9 they had their -- one of their registrations 10 suspended or something and he had to leave. We 11 didn't know what it was about, but he had to just 12 leave all of a sudden.</p> <p>13 Q. Okay. Do you have a rough idea 14 on or around the time that was?</p> <p>15 A. No, I don't.</p> <p>16 Q. Did that -- your recollection 17 lead to a fine against Cardinal Health?</p> <p>18 MS. McCLURE: Objection, form.</p> <p>19 THE WITNESS: I think it did 20 after that, but I'm not -- I don't -- 21 because it seems like they had a couple. 22 And I'm not sure if both resulted in 23 fines.</p> <p>24 BY MR. PIFKO:</p>

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1 MS. McCLURE: Objection to form. 2 THE WITNESS: I don't recall. 3 This was 11 years ago. I don't remember 4 why I sent it to him. 5 BY MR. PIFKO: 6 Q. Did you have regular 7 communications with Steve Reardon? 8 MS. McCLURE: Objection, form. 9 THE WITNESS: Well, how -- define 10 regular. Every day, every week, every 11 month, every year? 12 BY MR. PIFKO: 13 Q. With any degree of regularity. 14 MS. McCLURE: Objection to the 15 definition. 16 THE WITNESS: What's regularity? 17 BY MR. PIFKO: 18 Q. What's regular to you? 19 A. Regular would be every day. 20 Q. Did you talk to Steve Reardon 21 with some frequency? 22 MS. McCLURE: Objection to form. 23 THE WITNESS: I would say 24 occasionally, at HDA calls, HDA meetings,	1 record at 1:00 p.m. 2 (Witness excused.) 3 (Deposition concluded at 4 approximately 1:00 p.m.) 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24
Page 103	Page 105
1 things like that. Not a lot of back and 2 forth, no. 3 BY MR. PIFKO: 4 Q. From time to time you would share 5 information, though, with him about issues in the 6 drug distribution business. Correct? 7 A. Yes. As long as it was not 8 proprietary information from ABC. 9 MR. PIFKO: Go off the record for 10 a minute. 11 THE VIDEOGRAPHER: Going off the 12 record, 12:56 p.m. 13 - - - 14 (A recess was taken from 15 12:56 p.m. to 1:00 p.m.) 16 - - - 17 THE VIDEOGRAPHER: Back on record 18 at 1:00 p.m. 19 MR. PIFKO: All right. We don't 20 have any further questions at this time. 21 MS. McCLURE: No further -- no 22 questions. 23 THE VIDEOGRAPHER: This ends 24 today's deposition. We're going off the	1 2 CERTIFICATE 3 4 5 I HEREBY CERTIFY that the witness 6 was duly sworn by me and that the deposition is a 7 true record of the testimony given by the witness. 8 It was requested before 9 completion of the deposition that the witness, STEPHEN MAYS, have the opportunity to read and sign the deposition transcript. 10 11 12 13 14 ANN MARIE MITCHELL, a Federally Approved Certified Realtime Reporter, Registered Diplomatic Reporter, Registered Merit Reporter and Notary Public 15 16 17 18 19 (The foregoing certification of 20 this transcript does not apply to any 21 reproduction of the same by any means, unless 22 under the direct control and/or supervision of 23 the certifying reporter.) 24